



# CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending May 22, 1999

## **Arthur E. Lees v. DoC –GAO Nos. B-281954.3**

Arthur E. Lees, an applicant for a Commercial Representative position with the U.S. Foreign Commercial Service in Chengdu, P.R.C., has filed a Request for Reconsideration following GAO's dismissal of one of his pending bid protests. Specifically, the protestor claims GAO has dismissed its protest on procedural rather than substantive grounds and requests GAO to issue an opinion on the merits, i.e., Commerce's authority to enter into personal services contracts utilizing personnel hiring procedures as opposed to procurement methods. (Lisa J. Obayashi)

## **Information Technology Services Procurement**

Debriefings with unsuccessful offerors are beginning this week in this Census Bureau procurement for a wide range of IT services. Because of the number of offers, debriefings will extend over several weeks. (Fred Kopatich)

## **DRC Corporation v. DOC (GSBCA No. 14919-COM)**

The Board granted Appellant's request for an extension in time to file its Appeal File, and granted the same time extension for Respondent to file its Answer. The filings are now due June 9<sup>th</sup>. (Amy Freeman)

## **DEBCON v. DOC (GSBCA)**

The Department entered Amy Freeman's appearance as an additional Counsel for Respondent. The Board scheduled a status conference for the parties to be held on Wednesday, May 26<sup>th</sup>. Pursuant to Appellant's request, we have agreed to make available additional documents for their review; however, we have not received Appellant's written discovery request. We approved the Board's standard protective order but have not received Counsel for Appellant's affidavit to be admitted under the order. Additional depositions are scheduled for the second week in June in Houston, TX, and for the first week of July in Kansas City. (Mark Langstein and Amy Freeman)

## **Cancellation of a RFP**

Di Canzano conducted research on appropriate standard to be applied to cancel an RFP issued by CASC. Old FAR 15.608 provided that Government can reject all proposals if cancellation is clearly in the Government's interest. New FAR 15.206 provides that the Government shall cancel if an amendment proposed for issuance is so substantial as to exceed what offerors reasonably could have anticipated had the substance of the amendment

been known to them. Thus, the standard for cancellation under the new FAR 15 is much more narrow than the old FAR 15. After conducting research, including discussions with GAO, advised that CO may cancel a solicitation where the Government has a reasonable basis for cancellation. The standard of reasonable basis for cancellation is supported by case law. (Di Canzano)

## **Collective Bargaining and Contract**

Conducting research on whether NOAA should permit a price adjustment where a collective bargaining agreement between Government contractor and a union states that "there shall be a full-time supervisor" but the contract between the Government and the contractor only provides for a part-time supervisor. (Di Canzano)

## **Technical Systems Associates, Inc. v. DoC, GSBCA Nos. 13277-COM and 14538-COM**

Transcript of re-hearing has been received. Respondent's post-hearing brief and appellant's record submission are currently scheduled for submission on June 28. Appellant requested an enlargement of time because he did not receive the transcript until May 4. (Terry H. Lee).

## **CLD "Time to Complete"—3.5 Days**

### **Actions by Contract Law Division during Period From 5/9/99 To 5/22/99**

| Bureau       | Received  | Completed |
|--------------|-----------|-----------|
| CLDP         | 0         | 1         |
| NIST         | 1         | 1         |
| NOAA         | 9         | 8         |
| O/S          | 0         | 1         |
| PTO          | 0         | 1         |
| <b>Total</b> | <b>10</b> | <b>12</b> |

### **Contract Law Division—Client Workload Period Ending 05/22/99**

